THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21327 of 2004

April 21, 2011

Between:
Jalai Raja Gopal, S/o.Ayyappa Chetty

... Petitioner

And

The Special Collector, Telugu Ganga Project, Nellore
And others

...Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21327 of 2004

ORDER:

The petitioner statedly is the hereditary trustee of Sri Venugopala Swamy Temple, Vontimitta, Kadapa District. The temple got submerged in Somasila Project Reservoir. A notification under Section 4(1) of the Land Acquisition Act, 1894 (the Act) was issued on 23.11.2004. It appears, award No.2/89, dated 11.9.1989 was passed for an amount of Rs.1,43,060/- in addition to additional market value and solatium. The petitioner then filed O.S.No.2 of 1988 on the file of the Court of District Munsif, Sidhout for declaration. The same was returned and was represented to the Court of Senior Civil Judge, Rajampet and marked as O.S.No.75 of 1990. By judgment and decree dated 09.11.1998, the temple was declared as public temple and that if it is a private temple the plaintiff and the defendant (third respondent herein) would have to divide the property equally. Against the said judgment, an appeal was filed. Subsequently the third respondent filed W.P.No.786 of 1992 to set aside the award No.2 of 1989. By an order dated 08.2.1993, the writ petition was disposed of directing the Land Acquisition Officer (LAO) to pay compensation to third respondent. The petitioner is not a party to the said writ petition. Therefore, after obtaining leave, he filed W.A.No.706 of 1995 which was partly allowed on 13.7.1995. The third respondent was directed to withdraw the compensation amount after furnishing security to the satisfaction of the Registrar of this Court. The third respondent did not comply with the condition. In the mean while, another notification was issued on 23.11.2004 though an award was earlier passed.

The LAO has filed counter affidavit. It is stated that as the name of the petitioner was not mentioned in award No.2 of 1989 a fresh enquiry was conducted. Subsequently it was noticed that as the award was not passed within a period of two years from the date of draft declaration, the proceedings initiated under the notification which led to the award No.2 of 1989 lapsed. Therefore a fresh notification was issued.

The Counsel for the petitioner today has placed before this Court a copy of the award No.1/2006-07 dated 27.4.2006. A perusal of the same would show that the petitioner herein appeared in the award enquiry and filed objection petition dated 09.12.2004. As there were rival claims between the petitioner and M/s.Ayyavaru Chetty and the Assistant Commissioner of Endowments, Kadapa, the LAO referred the matter to Civil Court vide letter No.Ref.C/71/ 1992, dated 02.2.2007 under Section 31(2) of the Act. It is not clear whether the Court of the Senior Civil Judge, Rajampet has issued any notice to the petitioner.

After giving anxious consideration to the backdrop of facts in this case and also the subsequent facts as evidenced by the documents placed before this Court today, it is clear that insofar as the land and structure situated in an extent of 934.08 Sq.Mts in S.No.1377 claimed by the petitioner, there are rival claims including that of Endowments department. The dispute stands referred to the Civil Court under Section 31(2) of the Act and, therefore, it would not be proper for this Court to express any opinion on the merits of the case. Liberty is given to the petitioner to approach the Court of Senior Civil Judge, Rajampet with a copy of this order and file appropriate application even if the petitioner has not received any notice from the said Court. This Court also observes that if the O.P. is still pending, the same shall be disposed of by the said Court within a period of six months from today.

The writ petition shall stand disposed of accordingly, without any order as to costs.

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(**V.V.S. RAO, J**)

April 21, 2011
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